

CHAPTER 6

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EVIDENCE CUSTODY PROCEDURES

0601. GENERAL

a. It is all Navy law enforcement personnel's responsibility of to take every precaution to preserve the integrity of evidence in its original condition. This means that personnel must enter evidence into the custodial system as soon as possible after its collection, seizure, or surrender.

b. Host activities shall receive and store evidence received from its tenant activities. Tenant activities shall not operate their own evidence lockers unless they have the capacity to do so, i.e., suitable storage containers and a formal agreement with the host activity. Whenever practical the security evidence locker will be combined with the NCIS evidence facility.

c. Whenever a requirement calls for a "disinterested party," that party shall not be assigned to the security/legal departments of any command/tenant activity. The disinterested party will be identified by name, grade/rank/rate, and billet title.

0602. RESPONSIBILITIES

a. The security officer will establish an evidence custody system consisting of:

(1) An Evidence Custodian, designated in writing

(2) An Alternate Evidence Custodian, designated in writing

(3) An evidence locker/room meeting the security construction and locking requirements of this chapter, and

(4) A bound Evidence Log (OPNAV 5580/24), an Active Evidence Custody File, and a Final Evidence Disposition File.

b. Conduct a complete evidence inventory on relief of the security officer, evidence custodian, alternate evidence custodian, or, in any event, at least semi-annually. In addition, an inventory will be conducted whenever a discrepancy is noted.

c. The evidence custodian (or the alternate evidence custodian in the absence of the primary) will ensure that:

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(1) Evidence is inventoried, tagged, packaged, and marked prior to storage, and that evidence custody documents are properly completed by the person delivering the evidence prior to its acceptance.

(2) That evidence logs and records are properly maintained.

(3) Evidence is disposed of following current Navy and command policies.

0603. EVIDENCE RECORDS

a. Evidence custody records will be composed of a bound evidence log (OPNAV 5580/24), an active evidence custody file, and a final evidence disposition file.

b. The evidence log shall be maintained for a period of 5 years from the date of the last entry. The active evidence custody record shall be maintained as long as there is evidence in custody which has not been officially disposed of. The final evidence disposition file shall be maintained for a period of 5 years after the close of the calendar year covered by the file.

c. Each custody document received by the custodian will be reflected on a separate log book line. The log shall also contain dated entries of all inventories, all changes of security officer, evidence custodian, or alternate, and all changes of lock combinations. Each entry indicating a receipt of evidence by the custodian shall be assigned an evidence log number consisting of two groups of numbers separated by a dash (-); the first set of numbers will be a three digit chronological number of the document for that calendar year, and the second group consisting of the last two digits of that year (e.g., 001-96 for the first evidence custody document for the calendar year 1996). Each entry will be made in black ink on the next blank line and no empty lines will be permitted. In the event an error is made in the entry, the entry will be ruled out with a single line and initialed by the custodian. Erasures or "white out" entries are not authorized.

d. The Active Evidence Custody File shall consist of copies of each Evidence/Property Custody Document (ECD) (OPNAV 5580/22) relating to evidence which has been received by the custodian and which has not been disposed of. This record shall be maintained in one or more loose leaf notebooks, and filed by Evidence Log Number with newer entries being placed on top. This file represents all evidence for which the evidence custodian is responsible.

e. A Final Evidence Disposition File will be maintained on all ECDs relating to evidence which has been disposed of. This file will be kept in the same manner as for the Active Evidence Custody File. When ready for filing, the evidence custodian will complete the final disposition section. The duplicate copies of ECDs will be destroyed. In the event the original ECD is forwarded with the evidence during the final disposition action, the copy in the Active Evidence Custody Record shall be completed as if it were the original and transferred to the Final Evidence Disposition File.

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f. The required evidence custody records shall be stored in the evidence locker to prevent unauthorized access to the files.

g. Only approved OPNAV evidence logs and forms are to be used for evidence custody. If evidence is received from a non-Navy source, an OPNAV evidence custody document will be initiated and the original evidence document will be attached to it.

0604. EVIDENCE LOCKERS.

a. Evidence lockers will be used to safely secure all items of evidence. Lockers will meet the construction and locking criteria specified for "Q" and "R" coded items in reference (b); CAT IV arms, ammunition, and explosives; and classified material in reference (i), specifically:

(1) If only small items of evidence are held they may be stored in GSA-approved security containers. However, if the container weighs less than 750 pounds it will be secured to the floor/wall. Since GSA-approved containers are not allowed to be physically modified in any fashion, containers of less than 750 pounds can be made to meet the weight criteria by adding weight to the inside of the container, or by using straps across the container with the straps bolted to the floor/wall. If straps are used, bolts will be modified to make them non-removable.

(2) Larger items or amounts of evidence will be stored in a vault or strongroom meeting the construction requirements of reference (i).

b. Only GSA Group 1 or Group 1R three tumbler combination locks are approved as locking devices. For evidence stowage, electromagnetic locks are not required. Specifically prohibited are key-operated locks and cipher locks.

c. Temporary evidence stowage containers. Construction and lock requirements do not extend to temporary evidence lockers (drop boxes) provided the drop box is constructed so that evidence cannot be removed without destroying the box or lock; that the box is within the continual sight of the security dispatcher or a security supervisor; the key to the drop box is stored in the regular evidence locker; and that the evidence is not held in this temporary storage for more than 24 hours.

d. All evidence received by a Navy component having an evidence locker shall be stored therein with exceptions of evidence too bulky for storage, evidence of a classified nature that requires special handling (e.g., Sensitive Compartmented Information and Communications Security), perishable items such as food, human/animal parts, items of an unstable chemical/flammable nature, and explosives. These types of evidence may be stored elsewhere, with the prior authorization of the security officer, where restricted physical access to the evidence can be maintained. In any event all such items, unless of an especially bulky nature, shall be wrapped or placed in containers and sealed so that any unauthorized access to the evidence can be detected. Personnel maintaining temporary custody of these items will be briefed on the requirements for secure storage and the probable requirement for them to testify as

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to their custody. Further, they will execute the ECD upon receipt and release of the evidence. The original ECD may be left with the evidence unless the storage conditions might cause its destruction. In this case, a copy may be substituted and the original maintained in the evidence locker.

e. Access to the evidence locker:

(1) Access to the evidence locker will be strictly limited to the evidence custodian. The and alternate evidence custodian . The security officer will be provided the combination to the locker in a sealed Security Container Information envelope (SF 700). Should the security officer gain access to the evidence locker by removing the combination from the envelope, the combination will be changed and a new SF 700 will be provided to the security officer. The reason for the entry by the security officer will be recorded in the bound evidence log on the day it occurs.

(2) Persons other than the evidence custodian, security officer, and alternate evidence custodian may be granted access for official purposes (e.g., assistance visits/inspections). Approved visitors will be entered in a log showing the date of the visit, time, identity of the visitor, office or official capacity of the visitor, and reason for the entry into the locker.

f. In no event will lost and found, supply/cleaning gear, or any other non-evidentiary items be placed in the evidence locker.

0605. EVIDENCE SUBMISSION

a. When any person submits evidence to the evidence custodian, it shall be properly tagged, and if appropriate, placed in a suitable container. The original and two copies of the ECD will be securely attached to the evidence or its container. The original and copies of the ECD and the interleaved carbon paper will be separated only by the custodian accepting the evidence. The original and all copies of the ECD shall be signed by the evidence custodian in the appropriate block acknowledging receipt of the evidence. The original ECD shall remain physically attached to the evidence, the first copy shall be placed in the Active Evidence Custody File and the second shall be returned to the person submitting the evidence. When the evidence is turned into a temporary depository (drop box) the ECD shall be signed by the person depositing the item in the "Released by" column, and shall enter the name or number of the depository in the "Received by" column. When the seizing person is also the evidence custodian, he/she will also complete the "released by" column on the ECD to show release by the seizing person and receipt into the evidence custody system. When any evidence is checked out of the evidence locker for whatever purpose prior to its final disposition, a copy of the ECD shall be maintained in the evidence locker in the Active Evidence Custody File. In the event that the original is lost or destroyed, a copy may be used in its place.

b. All evidence being submitted shall be carefully examined and counted/weighed by the accepting custodian. Any items entered which are later found not having evidentiary value

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should be promptly returned or disposed of following the directions of the commanding officer, security officer, or legal officer. If there is any doubt as to the value of the evidence, advice should be sought from the servicing Navy Legal Service Office.

c. When pills/capsules are entered into the evidence locker, they will be both counted and weighed.

0606. EVIDENCE INVENTORY

a. When evidence is first received into custody the receiving party must first inventory the evidence personally. Subsequently, when evidence is transferred between parties, the evidence must be verified.

b. The contents of each evidence locker shall be inventoried semi-annually. An inventory shall also take place on the occasion of the relief of the evidence custodian/alternate evidence custodian, or the security officer, and upon loss or suspected loss of evidence or when a breach of security is known/suspected. If the inventory required for the replacement of the evidence custodian/alternate occurs within 2 months of the regularly scheduled semi-annual inventory, it may be substituted for that inventory.

c. Inventories shall be accomplished by the evidence custodian, the security officer, and a disinterested third party. Additionally, if the inventory is required by the relief of the custodian, it shall be conducted by the incumbent and the relieving custodian.

d. The inventory required by this instruction shall, at a minimum consist of a reconciliation of the Evidence Log against the Active Evidence Custody Record and a visual accounting of each item for which there is a log entry without final disposition and an ECD in the Final Evidence Disposition File. The only exception to this sighting requirement shall be evidence which has been temporarily transferred to another activity. Evidence which is stored outside the command evidence locker because of its bulk, classification/other special nature, and shall be sighted at each inventory, as it is not considered to have been temporarily transferred.

e. When the inventory is completed, an entry shall be made in the evidence log reflecting the reason for the inventory, who inventory was conducted by, and the results. Participating individuals will sign the log above their name and billet title. If the inventory was because of the relief of a participant, the log entry shall also reflect that all combinations were changed. Any discrepancies found shall be immediately reported, in writing, by the security officer to the commanding officer. The security officer shall then cause the discrepancy to be fully investigated and will make a final report on the discrepancy, its suspected cause, and actions taken or recommended.

f. At commands with large amounts of active evidence, the signing of the Evidence Log by both the incoming and outgoing evidence custodians attesting to the fact that they have completed a visual sighting of each item and have found no discrepancies will complete the

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transfer of evidence. This negates the need to record the transfer of evidence between evidence custodians on each and every active ECD within the system. However, where holdings are small, completing the ECD is still the preferred method of transferring evidence.

g. Sometime prior to the semi-annual inventory of evidence, the evidence custodian will review the Active Evidence Custody File with the security officer in order to identify what evidence may be logically considered for disposal.

h. During inspections, the inspector(s) may conduct a review of evidence custody procedures by reviewing selected items of evidence, the associated documentation, and a sample number of final disposal actions. This will not be considered as a substitute for required inventories.

0607. TRANSFER AND SHIPMENT OF EVIDENCE

a. Temporary Transfer. When it is necessary to transfer evidence to another agency on a temporary basis the original ECD will accompany the evidence. The evidence custodian, prior to the release of the evidence, will sign the original and duplicate ECD. The duplicate will be retained in the Active Evidence Custody File. Those persons handling the evidence prior to its return to the evidence custodian will complete the appropriate blocks in the accompanying original ECD. A receipt must be obtained from the receiving agency. In the event that only part of the evidence will be temporarily transferred, the original ECD will accompany that part with appropriate notations in the item column to the left of the transferring signature. A duplicate of the original ECD will be reproduced and attached to the balance of the evidence maintained in the evidence locker. Upon return of the original ECD, the duplicate may be destroyed.

b. Permanent Transfer. In the event that it is necessary to transfer evidence permanently to another agency, the original ECD will accompany the evidence and will be signed out of the evidence locker by the custodian. The duplicate copy in the Active Evidence Custody Record will be executed by the evidence custodian, and the final disposition portion will be completed by the agency representative receiving the evidence. The appropriate disposition entry will also be made in the bound evidence log. The duplicate copy will then be filed in the Final Evidence Disposition File. In the event that the receiving agency does not accept all the evidence listed on the ECD, the original form will be retained with the balance of the evidence in the evidence locker. The agency representative shall receipt for that portion of the evidence taken by an appropriate entry on the form, and shall be provided a copy of the original form. The final disposition of the evidence will not be entered in the bound evidence log until all evidence listed in the ECD has been disposed of.

c. Transfer to other naval commands. When evidence is transferred to another naval command, the original ECD will be transmitted with the evidence. In the event that only part of the evidence is transferred, the original will be forwarded and a copy attached to the balance. If it is known prior to transfer that part of the evidence will not be needed, the original ECD will be retained and a copy forwarded with the evidence. The command receiving the evidence will

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continue to use the custody document attached to the evidence. The item(s) of evidence will be logged the same as any others including the assignment of a new evidence log number. The entry in the bound evidence log will show the new number followed by the log number (in parentheses) of the originating component, [e.g., 085-94 (244-95)]. The new number will also be placed on the ECD just above the original number. The receiving component will then reproduce a copy of the ECD and place it in its Active Evidence Custody File. The component which transferred the evidence (if all its evidence was in fact transferred) will remove its copy of the ECD from its active file, appropriately annotate the disposition portion, and place the document in the Final Evidence Disposition File.

d. Transfer by mail. Whenever possible, transferred evidence will be hand delivered. Evidence which is to be mailed must, in all cases, be registered and a return receipt requested. The registered mail receipt and the return receipt will be stapled to the ECD in the Active Evidence Custody File. If the transfer is permanent, the receipts will become a permanent part of the system by inclusion in the final disposition file with the document. When evidence is prepared for mailing, it will be double-wrapped with the inner wrapping marked to indicate the presence of evidence. The package must be specifically addressed to the evidence custodian.

0608. DISPOSAL OF EVIDENCE.

a. Approval for the disposal of evidence shall be requested in writing to the commanding officer. Authority, if given, will be indicated by endorsement.

b. Evidence which was used in any courts-martial action shall not normally be disposed of until the trial and subsequent appeals have been completed. Authorization for disposal must be obtained from the trial counsel handling the trial, or the judge advocate of the next senior in command if on appeal. If the evidence was used in federal, state, or other civilian court, the authorization must be obtained from the appropriate prosecuting attorney prior to disposal. When authorization for disposal is received, the evidence custodian shall complete the final disposition section of the ECD by recording the name and title of the person authorizing the disposal.

c. Any evidence which was used in any administrative process shall not be released until all appeals or reviews of the initial action are completed. Prior to disposal of such evidence, authorization shall be obtained from the judge advocate or command legal officer of the command which has cognizance over the person against whom the action was taken. In the event of their absence, their counterparts at the next senior command should be contacted. When authorization is received, the evidence custodian shall complete the final disposition section of the ECD indicating the name and title of the person authorizing the disposal.

d. Any evidence which is entered in the evidence system and which is not used in judicial or administrative action may be disposed of after a period of 6 months, or sooner if it becomes obvious that it has no evidentiary value whatsoever, or if early disposal is directed by the

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commanding officer or staff judge advocate. Extreme care must be taken in early disposal since the original incident may later indicate that the evidence should have been retained.

e. In significant unresolved cases evidence should be retained until expiration of the statute of limitations. Such disposal may be authorized by the security officer after consulting with the requestor and the staff judge advocate. In such cases, the evidence custodian will complete the final disposition section of the ECD showing the security officer as the authorizing official.

f. Active evidence belonging to ships, stations, or units scheduled for decommissioning or closure will be transferred to the nearest active evidence locker, as specified by the area commander/coordinator, type commander, or Echelon 2 commander. Prior to the transfer, all evidence which can be reasonably disposed of will be cleared from the locker and appropriate ECD entries made.

0609. EVIDENCE DISPOSAL GUIDELINES

a. Evidence which is the personal property of an individual shall, whenever possible, be returned to that person, with the exception of contraband/other unlawful items. When personal property is returned to the owner or his/her authorized representative, the individual receiving the property shall be required to sign in the disposition section of the original ECD (or copy, if the original is absent). If the owner/representative presents a property receipt when making the claim, the receipt shall be obtained and destroyed. In the event that the owner refuses to accept all the property seized, this shall be noted on the ECD, and other appropriate disposal shall be made of the property. In the event certain personal property, the possession of which is not generally unlawful but is prohibited by command or installation orders, is entered into the evidence custody system, the property shall be returned to the command having control over the individual from whom it was obtained when it has served its purpose. It shall be necessary for that command to receipt for the property and make a determination as to its disposition.

b. When evidence has been received which is the custodial responsibility of the authority requesting the investigation, it shall be returned to the requestor's representative and that person shall be required to receipt for it in the final disposition section of the ECD.

c. All U. S. government property which cannot be identified as belonging to a particular activity or command shall be submitted to the activity supply department or the nearest Navy supply activity. In addition to any documentation required by the receiving activity, the activity's representative shall receipt for the material in the final disposition section of the ECD. In the event that the activity declines to receipt for the property on the ECD, a suitable receipting document shall be obtained and attached to the ECD.

d. U. S. government currency/negotiable instruments, which cannot be returned to a rightful owner shall be turned in to the U. S. Treasury via the activity disbursing officer.

e. Final disposition on government owned weapons will be in accordance with and comply with reference (i).

f. Evidence which cannot be returned to the owner/entered into the Navy supply system for disposal, such as drugs, illegal firearms, or other contraband, shall be destroyed. Such destruction shall be accomplished by or in the presence of the evidence custodian/alternate and a disinterested party, both of whom shall sign the final disposition section of the ECD.

g. Under no circumstance will any evidence be converted for use by a Navy component or for the personal use of any individual within/without the Department of the Navy. Releasing controlled substance evidence for use as training aids to Navy drug detector dog teams or for the purpose of "controlled burns" or making a training aid display boards is not authorized.